

REMARKS

Claims 1-41 are currently pending in the subject application and are presently under consideration. Claim 37 has been amended as shown on p. 7 of the Reply. An interview was conducted on March 26, 2008. While the discussion generally related to all the claims, the discussion focused references Britton (U.S. Patent No. 7,289,862 B2). Amendments disclosed herein were presented to the Examiner. The interview was conducted with Bhavani Rayaprolu (Reg. No. 56,583), Asmita Chande and Examiner Gilles. The main focus of the interview was on deficiencies of the 103 rejections. The examiner agreed that the filing date of the cited reference, Britton (U.S. Patent No. 7,289,862 B2), is after the filing date of the subject application. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-36 and 38-41 Under 35 U.S.C. §103(a)

Claims 1-36 and 38-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lau U.S. Patent No. 6,101,500 in view of Britton, U.S. Patent No. 7,289,862 B2. This rejection should be respectfully withdrawn for least of the following reasons. Lau alone or in combination with Britton does not teach or suggest each and every aspect of the subject claims.

[T]he prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP § 706.02(j). See also KSR Int'l Co. v. Teleflex, Inc., 550 U. S. ___, 04-1350, slip op. at 14 (2007). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art and not based on applicant's disclosure. See In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

Applicant's subject claims relate to a system and method that facilitates aggregation of a single network's data and/or multiple networks' data to decrease the amount of effort required by system administrators to keep a network operational and/or to provide control of its utilization and/or update a system's state. In particular, independent claims 1, 21 and 36 relate to an analysis component that processes at least a portion of the ***aggregated system state data*** to determine at least one characteristic of at least one system state, ***the at least one characteristic employed to automatically limit a user's utilization of at least one aspect of the networked***

system. Lau, alone or in combination with Britton, does not disclose or suggest these novel aspects.

Lau relates to a network management system and method that facilitates management of objects in a hierarchical data structure. In particular, an index representing the health of a network object is computed that has a numeric value having an associated color in which an icon representing the network object in the network management program is rendered. However, the composite index fails to indicate data relating to a historical instance in time *and/or* to a current instance in time *and/or* a future instance in time. Claim 11 of applicants' disclosed subject matter recites *the state related information comprising an historical state status relating to at least one of system usage states, system performance states, or system health states*. Lau is silent with respect to this feature. Further, Lau presents the composite index to network administrator in a manner such that the administrator can locate information without prior knowledge of the hierarchical data structure but aggregated information relating to a problem is not explicitly presented to the administrator. The composite index represents a degree of confidence that a particular network object is experiencing a problem. However, it displays a value and does not provide the administrator with trend data and other hidden data. Lau is silent with providing a user with **aggregated system state data**. Additionally, Lau does not teach or suggest a system that employs collected data to ***automatically limit a user's utilization*** of an aspect of the network as taught by applicants' subject claims.

Further, the Examiner attempts to compensate for the aforementioned deficiencies of Lau with Britton. However, Britton is not citable art under this section. Applicants' representative notes that Britton is not valid prior art because its effective filing date is later than applicants' filing date. Specifically, Britton claims priority to a provisional application (No. 60/534,429, filed January 7, 2004) that also has a later filing date than the applicants' filing date of November 25, 2003.

Thus, as discussed supra, Lau fails to teach or suggest each and every feature of the subject claims and Britton is not citable art under this section as it was filed after applicants' filing date. Accordingly, it is respectfully requested that this rejection be withdrawn.

II. Rejection of Claim 37 Under 35 U.S.C. §102(b)

Claim 37 stands rejected under 35 U.S.C. §102(b) as being anticipated by Lau U.S. Patent No. 6,101,500.). This rejection should be withdrawn for at least the following reasons. Lau does not disclose or suggest each and every aspect set forth in the subject claims.

A single prior art reference anticipates a patent claim only if it ***expressly or inherently describes each and every limitation set forth in the patent claim.*** *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The ***identical invention must be shown in as complete detail as is contained in the ... claim.*** *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

Applicants' claimed subject matter relates to systems and methods for providing monitoring and control of utilization related aspects of networked systems. In particular, claim 37 has been amended to recite ***the aggregated state data employed to automatically limit a user's utilization of at least one aspect of the networked system.*** Lau fails to teach this novel aspect. As discussed *supra*, Lau relates to a system that manages objects in a hierarchical data structure but does not teach or suggest aggregation of data and/or automatically limiting a user's utilization of an aspect of the network based on the aggregated data.

In view of the foregoing, it is clear that Lau does not anticipate each and every feature of independent claims 37. Accordingly, it is respectfully requested that this rejection be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP503USB].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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